

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

(1) AVIS HUNT, as Special)	
Administrator for the ESTATE)	
OF DAMON LAMONT FALLS,)	
deceased,)	
Plaintiff,)	
vs.)	CASE NUMBER
)	CIV-12-755-L
(1) DANIEL HERRING, Individually,)	
while acting under color of)	
law, as an Oklahoma City)	
Police Officer, and)	
(2) JACOB COLE, Individually,)	
while acting under color of)	
law, as an Oklahoma City)	
Police Officer, and)	
(3) ZACHARY MILLER, Individually,)	
while acting under color of)	
law, as an Oklahoma City)	
Police Officer, and)	
(4) RAMON CASTRO, Individually,)	
while acting under color of)	
law, as an Oklahoma City)	
Police Officer, and)	
(5) AARON WAKE, Individually,)	
while acting under color of)	
law, as an Oklahoma City)	
Police Officer, and)	
(6) TYLER DUNCAN, Individually,)	
while acting under color of)	
law, as an Oklahoma City)	
Police Officer, and)	
(7) THE CITY OF OKLAHOMA CITY, a)	
municipal corporation.)	
Defendants.)	

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DEPOSITION OF RAMON CASTRO
TAKEN ON BEHALF OF THE PLAINTIFF
ON JULY 9, 2013
IN OKLAHOMA CITY, OKLAHOMA
* * * * *

REPORTED BY: MELINDA R. NIEVEZ, CSR, RPR

1 during the apprehension of Mr. Falls, were
2 authorized, were certified to use the weapon?

3 A I'm not sure if they were or they weren't.
4 I know a couple of us weren't. I don't know about
5 the other three.

6 Q You never saw the weapon at the scene on
7 July 5, 2010, that could shoot these bean bags, did
8 you?

9 A No.

10 Q And then we have the Taser that can be
11 utilized; correct?

12 A Correct.

13 Q How does an officer become certified to
14 use a Taser?

15 A You can actually volunteer to use one.

16 Q Have you ever been certified to use a
17 Taser?

18 A No.

19 Q You say that you can volunteer. So it's
20 up to the officers if they want to have that weapon
21 available?

22 A Yes. And if their lieutenant says okay,
23 if he agrees with it.

24 Q Have you ever asked to be certified with a
25 Taser and been declined?

1 Q Did you hear any other officers responding
2 that they were also going to go to this scene?

3 A I don't remember if I did.

4 Q When you get to the scene, tell me what
5 you first did.

6 A As I'm pulling up to the parking lot,
7 Officer -- Sergeant Wake is pulling up as well.

8 Q So the two of you arrive at the same time?

9 A Almost the same time, yeah.

10 Q Was Officer Wake already out of his
11 vehicle when you pulled up?

12 A No. He was pulling up.

13 Q And you don't recall ever hearing Officer
14 Wake respond to the radio call?

15 A I think he said he was 97 there. So, I
16 mean, he was probably close by when he took the call
17 and said he was there.

18 Q What does "97" mean?

19 A On the scene.

20 Q And did you also notify dispatch that you
21 were 97 as well?

22 A Correct.

23 Q Do you and Officer Wake have any
24 conversation --

25 A No.

1 walks over where the manager is?

2 A As he's walking toward him, yes.

3 Q And that's the part of the conversation
4 you don't hear at that point?

5 A Correct.

6 Q But you're not remaining by your car.
7 You're walking towards that front entrance also,
8 aren't you?

9 A Correct.

10 Q As you're walking towards the front
11 entrance, this is when you hear the manager say he's
12 still inside?

13 A Yes.

14 Q Does the manager say anything else, to
15 your knowledge?

16 A No, not to my knowledge.

17 Q So when you hear that he is still inside,
18 what do you do?

19 A Well, I walk behind Sergeant Wake and the
20 manager as we're walking in the store.

21 Q Who is walking in the store with you at
22 that point?

23 A Sergeant Wake and the manager.

24 Q Any discussion going on during this time?

25 A Not as we're walking in, no.

1 Q Any discussion at all? And that's what
2 I'm trying to -- I'm trying to get a time line here
3 of everything you know that is taking place.

4 Is there anything that you hear from the
5 manager or from Officer Wake prior to your initial
6 contact with Mr. Falls that we have not discussed?

7 A No. Just by what -- I mean, like I'm
8 saying, I didn't hear what Officer Wake and the
9 manager said when they were talking. We just
10 started walking. Said he's still in the store. And
11 we were, like, okay, we'll go in there. We just
12 walked in and tried to look for him.

13 Q Well, at some point do you ever hear the
14 manager say something like he's back in the area
15 where the chemicals are located?

16 A It was toward the back of the store.
17 That's all I heard. I mean, I didn't hear it.
18 Officer Wake was the one behind him, so he was the
19 one that got most of that. I was just following
20 them toward the back.

21 Q Okay. Well, tell me the order. Who is
22 first in line as you go in the store?

23 A The manager, Sergeant Wake, and myself.

24 Q Okay. And how close are you to Sergeant
25 Wake at that point?

1 A A couple of feet right behind him.

2 Q And how far is the manager in front of you
3 at that point?

4 A Maybe a couple of feet as well.

5 Q I mean, when the manager is talking to
6 Sergeant Wake, is he turning around and telling him
7 this information?

8 A I believe so, yes.

9 Q So you could hear whatever he was saying
10 at that point?

11 A Somewhat, yeah. Like I'm saying, we're
12 walking in store. He turns around and says, yeah,
13 he's back this way. I mean, I could hear that.
14 That's about it. But I didn't hear anything else
15 besides, he's back over here, he's back toward the
16 back of the store.

17 Q And that is all you recall the manager
18 saying as you're walking in the store, that he is
19 towards the back of the store?

20 A Correct.

21 Q What's the next thing that you do?

22 A As we walk in the store, I just continue
23 to look down the aisle to see if we can see the guy,
24 maybe if he's walking back toward the front of the
25 store. I see something walk, out of the side of my

1 eye, so I go down one aisle toward the east side of
2 the store and looked around and I didn't see
3 anybody. I guess he had already went back toward
4 another aisle.

5 Q You said you see something out of your
6 peripheral vision. What is it you see?

7 A Somebody walking by.

8 Q Does it appear to be a large person
9 walking by?

10 A I just saw something just move by.

11 Q Are there other customers in the store at
12 this time?

13 A Yes.

14 Q Was it busy? Was there just a few
15 customers? How would you describe it?

16 A There were maybe three people in each
17 cashier waiting to cash out, maybe a couple walking
18 in the store, but they were on the west side of the
19 store.

20 Q Before you left to walk down an aisle, did
21 you hear any statement made by any cashier?

22 A No. She just pointed that way toward the
23 back. She didn't say anything.

24 Q Which cashier pointed that way?

25 A The one that was on the east cashier, a

1 Q And where was Mr. Falls at this time?

2 A Probably one aisle behind the cashier or
3 right behind the cashier, which would be south.

4 Q How far down that aisle is he?

5 A He was right -- right in the middle aisle,
6 right where we walked in.

7 Q At the time you first see Mr. Falls, where
8 is Sergeant Wake?

9 A A couple of aisles behind me, I believe.
10 I'm not sure where he was at.

11 Q When you first see Mr. Falls, where is the
12 manager?

13 A I don't know.

14 Q When you first see Mr. Falls, do you have
15 a complete view of him from head to toe?

16 A Correct.

17 Q Is he carrying anything in his hands?

18 A No.

19 Q What is he doing?

20 A At that point he was looking at me,
21 facing -- he was facing south and I was facing
22 north.

23 Q And as the two of you are looking at each
24 other, what do you do?

25 A I ask him what's going on, can we talk for

1 a minute.

2 Q When you ask him what is going on, how far
3 from Mr. Falls are you at this point?

4 A Three feet, maybe, four.

5 Q Who has closed the gap? Does Mr. Falls
6 walk towards you or do you walk towards him?

7 A I was walking a little bit towards him.

8 Q Well, when you first see him, how far away
9 are you?

10 A Five feet maybe. We weren't that far.

11 Q So he just came around the corner and was
12 standing there?

13 A Yes.

14 Q And you would have walked -- or closed the
15 distance by about two feet to be three feet from
16 him --

17 A Yeah.

18 Q -- before you start talking to him?

19 A Correct.

20 Q And I want you to use, if you can recall,
21 the exact language that you used with Mr. Falls.
22 What was the first thing you told him?

23 A If I can recall, it probably would be,
24 what's going on, can we talk for a minute.

25 Q Does Mr. Falls break eye contact with you

1 at any time while you're making that statement to
2 him?

3 A He's just looking around.

4 Q How far is Mr. Falls from the exit?

5 A Two aisles. Two or three aisles,
6 probably.

7 Q What would be that distance?

8 A Maybe 15 feet, 10 feet, somewhere around
9 there.

10 Q Is he facing towards the exit at that
11 point?

12 A No. He's facing south.

13 Q And the exit is back to the north?

14 A It's north, yes.

15 Q So you are coming from the south, walking
16 north towards him?

17 A I actually turned the corner, yeah. I was
18 going west, and as I turned the corner, he was right
19 there facing north. I was facing north. He was
20 facing south.

21 Q Okay. You said that he was looking
22 around. Could you see him actually moving his head
23 to see what was going on?

24 A No. He was just moving his eyes around.

25 Q Does he make any response to your inquiry?

1 A I think he said, "I ain't doing nothing"
2 or "I ain't done nothing," something like that.

3 Q Anything unusual about that response, in
4 your mind?

5 A Just, I mean, the way he was acting.

6 Q We'll get to how he was acting. But
7 anything about the response itself that caused you
8 alarm?

9 A Just the tone of voice that he had.

10 Q What was the tone?

11 A High-pitched, not normal talking.

12 Q When you say "high-pitched," are you
13 talking about loud or octave?

14 A Kind of, yeah, loud.

15 Q Is he yelling at this point?

16 A Not exactly yelling, but it was loud.

17 Q From the time that you see Mr. Falls and
18 you're closing that distance of two feet by taking a
19 couple of steps, I take it you're observing him that
20 entire time, aren't you?

21 A Correct.

22 Q That is part of your training, isn't it?

23 A Correct.

24 Q Anytime you come up on a person, you want
25 to make sure that you can see what that person is

1 Q I mean Sergeant Wake.

2 A When he came, he was just going to go grab
3 his right arm. I think he actually grabbed it, and
4 that's when Mr. Falls pulled away and took off
5 running out the door.

6 Q Grabbing a person with your hand would be
7 a use of force; correct?

8 A No.

9 Q On the use-of-force matrix, isn't that the
10 lowest level of force?

11 A I believe so. I think so. But it
12 depends -- I mean, handcuffing is going to be a use
13 of force, I think.

14 Q Was it your intent --

15 A But you have to grab them to cuff them,
16 so.

17 Q But you're not planning on handcuffing
18 Mr. Falls at that point, are you?

19 A No. I'm just escorting him out.

20 Q Mr. Falls had been compliant with the
21 request that you had made, hadn't he?

22 A To go outside? Or what request?

23 Q Had you made a request to go outside yet?

24 A No, not yet. Oh, can we talk -- no, not
25 yet. I don't believe I did.

1 told me this, but I can't recall. I'm not trying to
2 ask you again. But when he turns, how far from the
3 exit is he located?

4 A Like I said, maybe two or three aisles,
5 maybe. It wasn't that far.

6 Q And we're just talking about the widths of
7 those aisles?

8 A Yeah.

9 Q So maybe 20 to 30 feet would be a good
10 estimate?

11 A Maybe 20 feet. I mean, it wasn't that far
12 from there, yeah.

13 Q The doors -- do you have to push on the
14 doors to get out?

15 A Correct.

16 Q And he's able to push on the doors and get
17 out, and you're not able to stop him while he's in
18 there?

19 A He was able to push the left door and get
20 out, and I was far enough behind that I couldn't
21 just grab onto him.

22 Q What happens as Mr. Falls is attempting to
23 leave the store?

24 A As he runs out the store, maybe 16 feet
25 from the door he starts putting his hands toward his

1 waist, and I hear and see a gun drop to the ground
2 as he's running.

3 Q Now, his back to you is at that point?

4 A Correct.

5 Q You see his hands do what as you're
6 running after him?

7 A Go toward the center of his waist.

8 Q Okay. Do they appear to be in tight to
9 his clothing?

10 A I believe so. They were close to him. I
11 mean, they weren't out in front of him. They were
12 right on his waist.

13 Q So he gets out 16 feet. How do you come
14 up with 16 feet?

15 A Measured that from the door to where we
16 estimated it would probably be in.

17 Q Did you actually do that measurement?

18 A Yeah. We did the measurement, yes.

19 Q Did you do the measurement?

20 A I didn't have the tape with me, but it was
21 there, yes.

22 Q You were there when they rolled it out,
23 and you were saying, here's about where --

24 A Yes.

25 Q -- this gun was located?

1 couple -- maybe a minute or so after the call was
2 sent out.

3 Q Okay. So who stopped and picked up this
4 weapon that fell?

5 A Sergeant Wake.

6 Q Were you in front of Sergeant Wake as
7 you're pursuing Mr. Falls?

8 A Yes.

9 Q Even after this gun fell out of his
10 waistband, had there been any crime committed?

11 A No.

12 Q Tell me what happens during this chase.

13 A Well, as I'm chasing after him and the gun
14 falls, Sergeant Wake says, you continue and I'll
15 call the pursuit.

16 So I'm chasing him. He runs across the
17 parking lot and through this open field, which has a
18 little path going through it that goes down to
19 Southeast 44th. Continues to run westbound passing
20 Phillips. And a little bit passing Phillips is
21 where he starts to give out and falls.

22 Q Does he go across the street?

23 A No.

24 Q So he's at a location that is directly
25 across the street from where this Prop Shop is

1 A I think he doesn't carry a mic. He has
2 just his radio.

3 Q Okay. So he was able to get his radio off
4 his belt and make that call?

5 A Yes.

6 Q He doesn't have to go back to his car, to
7 your knowledge?

8 A No.

9 Q So you chase him this two to two and a
10 half football fields. What happens at that point?

11 A Once he starts giving out, I start gaining
12 on him. He starts slowing down. So I draw my
13 weapon, tell him to get on the ground, get on the
14 ground, stop running. I do this through the whole
15 time we're running as I'm chasing him. When he does
16 that, I guess his legs give out and he falls. So at
17 that point, I get on top of him.

18 Q Does he fall completely to the ground with
19 his abdomen on the ground or just to his knees
20 first?

21 A He falls and falls, abdomen and rolls, and
22 then he stops on his stomach, facing south.

23 Q So he is completely prone at the time that
24 you are able to get on top of him?

25 A Correct.

1 Q At what point have you pulled out your
2 weapon?

3 A Right when he was giving out, when I
4 started gaining on him, I pulled it out, and then he
5 fell. So I got on top of him, still giving him
6 commands to stop running, get on the ground, put
7 your hands behind your back.

8 Q Why did you pull your weapon at that
9 point?

10 A Because I didn't know if he had any other
11 weapons on him.

12 Q What made you think me might have other
13 weapons on him?

14 A He dropped a gun. And any person who has
15 a gun is going to have another weapon on him.

16 Q Has that been your experience that people
17 carry more than one weapon?

18 A I would say it was, yes.

19 Q Did you have concern or fear for your
20 safety at the time you pulled your weapon?

21 A I did, yes, sir.

22 Q And that would be based upon the fact that
23 you thought he might have a second weapon?

24 A Correct.

25 Q At the time he goes down onto his abdomen

1 and is laying on the ground, what do you do?

2 A I get on his back, which is his lower
3 back. Still have my weapon out covering him, making
4 sure he's not reaching for anything else. But at
5 that point he has his hands underneath by his
6 waistband, underneath him.

7 Q Okay. So he's laying face down. You are
8 on him in his lower back area. Describe how you're
9 on him.

10 A Saddle -- or what do you call -- straddled
11 on him.

12 Q Are you actually sitting with your rear
13 end down on his back?

14 A Yes. On his -- it would be on his butt,
15 because I was down on his lower back.

16 Q So -- and your knees are out in front of
17 you at that point?

18 A They were to the sides, yes.

19 Q Are you on your knees as well?

20 A Yes.

21 Q Okay. So you're straddling him with your
22 knees on the ground, your rear end sitting on him,
23 and your gun out?

24 A Correct.

25 Q Where is your gun pointing?

1 about a weapon?

2 A All I hear is -- when he dropped the gun,
3 I told Officer Wake, he dropped a gun, he has a gun.
4 Sergeant Wake told me to continue, he'll call the
5 pursuit. I believe he would have picked it up if he
6 was going to chase us, I mean, and follow me down
7 there.

8 Q Did he tell you, I'm going to pick up this
9 gun?

10 A No.

11 Q And when he first arrives there, you don't
12 see a gun?

13 A No.

14 Q During the time that you are still sitting
15 on Mr. Falls and Sergeant Wake is now at his left
16 shoulder, what are you attempting to do?

17 A I'm trying to pull his right arm out from
18 underneath him.

19 Q Are you having success?

20 A No.

21 Q Why not?

22 A He's strong.

23 Q You told me about the techniques that
24 you've been taught to utilize. Did you utilize any
25 of those techniques to try to get his arm out?